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EXAMINER	
LAFORGIA, CHRISTIAN A	
ART UNIT	PAPER NUMBER
2131	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/783,229	HSIEH, VINCENT W.	
	Examiner	Art Unit	
	Christian La Forgia	2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 July 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The amendment 05 July 2007 has been noted and made of record.

2. Claims 1-18 have been presented for examination.

Response to Arguments

3. Applicant's arguments with respect to the 35 U.S.C. 101 rejection of claims 17 and 18 have been considered but are moot in view of the new ground(s) of rejection.

4. Applicant's amendments, filed 05 July 2007, with respect to the 35 U.S.C. 112, 2ND paragraph rejections of claims 1-8, 17, and 18 have been fully considered and are persuasive. The 35 U.S.C. 112, 2ND paragraph rejections of claims 1-8, 17, and 18 has been withdrawn.

5. In response to applicant's argument regarding claims 1-5 and 7-15 that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies, such as not needing to decrypt the data at the communication server, are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

6. Regarding claim 1, the Applicant argues that Jardin does not teach that the communication server does not need to decrypt the data. The Examiner notes that the argued feature does not appear until claim 6, which depends from claim 1.

7. As per claim 7, the Applicant restates that Jardin does not teach that the communication server does not need to decrypt the data. The argued feature does not appear in claim 7 nor any claims that depend from claim 7.

8. Finally, regarding claim 9 the Applicant, again, argues that Jardin does not teach that the communication server does not need to decrypt the data. The Examiner takes notice that the argued feature does not appear until claim 16, which depends from claim 9.

9. The Applicant's argued feature appears in claims 6 and 16-18. The Examiner agrees with the Applicant that Jardin does not teach that the communication server does not need to decrypt the data, but holds that it would have been obvious to one of ordinary skill in the art at the time the invention was made to omit the decryption element and its function as noted below. See MPEP § 2144.04; see also *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975); see also *In re Larson*, 340 F.2d 965, 144 USPQ 347 (CCPA 1965). Since it would have only taken routine skill in the art to not decrypt the information at the communication server, the claims are rejected under 35 U.S.C. 103(a) and the action is made final.

10. The Applicant argues that the claimed methodology produces "new and unexpected results" regarding the 35 U.S.C. 103(a) rejections of claims 3, 4, 6, 13, 14, and 16. The Applicant's argument amounts to a mere allegation. The Applicant has failed to produce any evidence showing the alleged new and unexpected results. See MPEP § 716.02(a). The Applicant is reminded that any evidence showing new and unexpected results should be submitted in a affidavit or declaration under 37 CFR 1.132. See also MPEP § 716 for guidelines for submitting evidence in an affidavit or declaration. Since the Applicant's arguments regarding claims 3, 4, 6, 13, 14, and 16 amount to a mere allegation, the rejection is proper and therefore maintained.

11. See further rejections that follow.

Specification

12. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter of claims 17 and 18. The specification fails to define the "computer-readable medium" of claims 17 and 18. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Appropriate correction is required.

Claim Objections

13. Claims 2, 8, 10, and 18 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claims, or amend the claims to place the claims in proper dependent form, or rewrite the claims in independent form. The Applicant's amendment to claims 2, 8, 10, and 18 that communications can take place over "any port" makes the claim improper since it fails to further limit the previous claims. All computer network communications occur on ports and stating that communication can take place on "any port" fails to further limit the claim.

Claim Rejections - 35 USC § 112

14. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

15. Claims 3 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 3 and 13, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 101

16. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

17. Claims 17 and 18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. One of ordinary skill in the art could reasonably construe the computer-readable medium of claims 17 and 18 to be a computer network or carrier wave, since the invention is directed to secure communication over a network (see Brief Summary of the Invention, page 9 of the Specification). The Office's current position is that claims involving signals encoded with functional descriptive material do not fall within any of the categories of patentable subject matter set forth in 35 U.S.C. § 101, and such claims are therefore ineligible for patent protection. *See* 1300 OG 142 (November 22, 2005) (in particular, see Annex IV(c)).

Claim Rejections - 35 USC § 102

18. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

19. Claims 1, 2, 5, 7-12, and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,681,327 to Jardin et al., hereinafter Jardin.

20. As per claim 1, Jardin teaches a computing device performing the method for secure communication, comprising:

secured communications between a server and a client (Figure 2, column 4, lines 34-59, i.e. client initiates a handshake operation with the broker pursuant to the SSL protocol), and between two clients, for ease of access and transparency, from any location to any location,

within said computing device (column 8, lines 2-17, i.e. the client and transaction server conducting transactions through the broker),

requesting communication by a client for connection to a communication server (Figure 2 [block 210], column 4, line 55 to column 5, line 15, i.e. ClientHello messages to the broker/communication server);

receiving said communication request and a handshake sequence is performed between said client and said communication server (Figure 2, column 4, lines 34-59, i.e. client initiates a handshake operation with the broker pursuant to the SSL protocol);

establishing a secure connection between said client and said communication server (Figure 2 [blocks 250, 260], column 6, lines 1-9, i.e. client and broker establish SSL connection);

coordinating a new connection with a second client by the communication server (column 6, lines 38-66, i.e. the broker establishing a connection with a server on the client's behalf); and

establishing a connection between the two clients via the communication server wherein said single communication port allows access from behind network securing means by establishing a secure proxy communication between said two clients by utilizing end-to-end secured data transfer (column 8, lines 2-17, i.e. the client and transaction server conducting transactions through the broker).

21. Jardin discloses that the communication occurs using a single secure communication port in disclosing that the communication between the client and broker and the broker and server and vice versa occurs using SSL. U.S. Patent No. 7,149,892 to Freed et al., hereinafter Freed, establishes that SSL communication occurs on port 443 at column 3, lines 20-23 and column 5, lines 48-56. Therefore, since the client and broker and the broker and server all communicate

using SSL, they are only using secure port 443.

22. Regarding claims 2, 8, 10, and 18, Jardin teaches wherein said single secure communication port is SSL port 443 or any other port, allowing secure communication using SSL or any other protocol, in his disclosure of SSL throughout the patent. As noted in U.S. Patent No. 7,149,892 to Freed et al., hereinafter Freed, establishes that SSL communication occurs on port 443 at column 3, lines 20-23 and column 5, lines 48-56.

23. Regarding claims 5 and 15, Jardin teaches wherein use of said single communication port allows ease of management of communications by establishing a secure connection between said two clients supporting multiple application protocols (column 8, lines 2-17).

24. As per claim 7, Jardin teaches a method for secure communication in a computer network, comprising:

secured communications within said computer network, for establishing secured communication between two or more clients via a communication proxy server (column 8, lines 2-17, i.e. the client and transaction server conducting transactions through the broker using SSL);

requesting communication by a client for connection to a communication server (Figure 2 [block 210], column 4, line 55 to column 5, line 15, i.e. ClientHello messages to the broker/communication server);

receiving said communications request and a handshake sequence is performed between said client and said communication server (Figure 2, column 4, lines 34-59, i.e. client initiates a handshake operation with the broker pursuant to the SSL protocol);

establishing a secure connection between said client and said communication server (Figure 2 [blocks 250, 260], column 6, lines 1-9, i.e. client and broker establish SSL connection);

coordinating a new connection with a second client by the communication server (column 6, lines 38-66, i.e. the broker establishing a connection with a server on the client's behalf); and

establishing a connection between the two clients via the communication server wherein said single communication port allows access from behind network securing means by establishing a secure proxy communication between said two clients by utilizing end-to-end encrypted data transfer (column 8, lines 2-17, i.e. the client and transaction server conducting transactions through the broker).

25. Jardin discloses that the communication occurs using a single secure communication port in disclosing that the communication between the client and broker and the broker and server and vice versa occurs using SSL. U.S. Patent No. 7,149,892 to Freed et al., hereinafter Freed, establishes that SSL communication occurs on port 443 at column 3, lines 20-23 and column 5, lines 48-56. Therefore, since the client and broker and the broker and server all communicate using SSL, they are only using secure port 443.

26. As per claim 9, Jardin teaches a method for secure communication in a computer system, comprising the steps of:

requesting communication by a client (i.e. client) for connection to a communication server (i.e. broker) (Figure 2 [block 210], column 4, line 55 to column 5, line 15, i.e. ClientHello messages to the broker/communication server);

receiving said connection request and a handshake sequence is performed between said client and said communication server (Figure 2, column 4, lines 34-59, i.e. client initiates a handshake operation with the broker pursuant to the SSL protocol);

establishing a secure connection between said client and said communication server (Figure 2 [blocks 250, 260], column 6, lines 1-9, i.e. client and broker establish SSL connection);

coordinating a new connection with the client by the communication server (column 6, lines 38-66, i.e. the broker establishing a connection with a server on the client's behalf);

initiating a handshake sequence with a second client (i.e. transaction server) via the communication server (i.e. broker) (Figure 3 [block 334], column 6, lines 43-57, column 7, lines 6-19, i.e. broker initiates a secure SSL handshake with the server); and

establishing a connection between the two clients via the communication server wherein said single communication port allows access from behind network securing means by establishing a secure proxy communication between said two clients by utilizing end-to-end secured data transfer (column 8, lines 2-17, i.e. the client and transaction server conducting transactions through the broker).

27. Jardin discloses that the communication occurs using a single secure communication port in disclosing that the communication between the client and broker and the broker and server and vice versa occurs using SSL. U.S. Patent No. 7,149,892 to Freed et al., hereinafter Freed, establishes that SSL communication occurs on port 443 at column 3, lines 20-23 and column 5,

lines 48-56. Therefore, since the client and broker and the broker and server communicate using SSL they are only using secure port 443.

28. Regarding claim 11, Jardin teaches wherein a single communication protocol using said single secure port is utilized (column 4, lines 26-29).

29. Regarding claim 12, Jardin teaches wherein multiple protocols using said single secure communication port are utilized (column 4, lines 26-29).

Claim Rejections - 35 USC § 103

30. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

31. Claims 3, 4, 6, 13, 14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jardin in view of U.S. Patent Application Publication No. 2003/0167403 to McCurley et al., hereinafter McCurley.

32. Regarding claims 3 and 13, Jardin teaches wherein use of said single communication port allows access from behind gateway devices by establishing a secure proxy connection between said two clients using a communication server as a traffic controller (Figure 1 [blocks 118, 128], column 3, lines 51-64).

33. Jardin does not teach that the gateway devices are firewalls.

34. McCurley teaches establishing a secure tunnel between two devices behind firewalls (Figure 4, paragraphs 0065-0071).

35. It would have been obvious to one of ordinary skill in the art to establish a secure

connection between two clients both behind firewalls, since McCurley states at paragraph 0041 that by allowing communication over a single port in a firewall it allows data to securely pass through the firewall, thereby providing access for roaming users and computers, for remote network administration, and for supporting virtual private networks implemented over the open network.

36. Regarding claims 4 and 14, Jardin teaches wherein use of said single communication port allows access inside gateways by establishing a secure proxy connection between said two clients using said communication server to enable said secure proxy connection to securely transfer end-to-end secured communications (Figure 1 [blocks 118, 128], column 3, lines 51-64).

37. Jardin does not teach that the gateway devices are firewalls.

38. McCurley teaches establishing a secure tunnel between two devices behind firewalls (Figure 4, paragraphs 0065-0071).

39. It would have been obvious to one of ordinary skill in the art to establish a secure connection between two clients both behind firewalls, since McCurley states at paragraph 0041 that by allowing communication over a single port in a firewall it allows data to securely pass through the firewall, thereby providing access for roaming users and computers, for remote network administration, and for supporting virtual private networks implemented over the open network.

40. Regarding claims 6 and 16, Jardin teaches establishing a secure proxy communication between said two clients (column 8, lines 2-17).

41. Jardin does not teach the use of firewalls and that decryption by the communication server is not required.

42. It would have been obvious to one of ordinary skill in the art at the time the invention was made to not decrypt the information at the communication server, since it has been held that it only requires routine skill in the art to omit an element and its associated function, especially if eliminating said element expedites the process. See MPEP § 2144.04; see also *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975); see also *In re Larson*, 340 F.2d 965, 144 USPQ 347 (CCPA 1965).

43. McCurley teaches firewalls (Figure 4, paragraphs 0065-0071). Since it is an industry standard and commonly accepted that SSL communicates over port 443, the system administrator would only have to set that once and not have to change the settings, if it was decided to allow access to the SSL protocol.

44. It would have been obvious to one of ordinary skill in the art to establish a secure connection between two clients both behind firewalls, since McCurley states at paragraph 0041 that by allowing communication over a single port in a firewall it allows data to securely pass through the firewall, thereby providing access for roaming users and computers, for remote network administration, and for supporting virtual private networks implemented over the open network.

45. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jardin.

46. As per claim 17, Jardin teaches computer software for a secure communication in a computer system, comprises:

secured communication within said computer system for establishing secured communications between two or more clients (column 8, lines 2-17, i.e. the client and transaction server conducting transactions through the broker using SSL);

requesting communication by a client (i.e. client) for connection to a communication server (i.e. broker) (Figure 2 [block 210], column 4, line 55 to column 5, line 15, i.e. ClientHello messages to the broker/communication server);

receiving said connection request and a handshake sequence is performed between said client and said communication server (Figure 2, column 4, lines 34-59, i.e. client initiates a handshake operation with the broker pursuant to the SSL protocol);

coordinating a new connection with a second client by the communication server (column 6, lines 38-66, i.e. the broker establishing a connection with a server on the client's behalf); and

establishing a connection between the two clients via the communication server wherein said single communication port allows access from behind network securing means by establishing a secure proxy communication between said two clients by utilizing end-to-end secured data transfer (column 8, lines 2-17, i.e. the client and transaction server conducting transactions through the broker).

47. Jardin discloses that the communication occurs using a single secure communication port in disclosing that the communication between the client and broker and the broker and server and vice versa occurs using SSL. U.S. Patent No. 7,149,892 to Freed et al., hereinafter Freed, establishes that SSL communication occurs on port 443 at column 3, lines 20-23 and column 5, lines 48-56. Therefore, since the client and broker and the broker and server all communicate using SSL, they are only using secure port 443.

48. Jardin does not teach that decryption by the communication server is not required.

49. It would have been obvious to one of ordinary skill in the art at the time the invention was made to not decrypt the information at the communication server, since it has been held that it only requires routine skill in the art to omit an element and its associated function, especially if eliminating said element expedites the process. See MPEP § 2144.04; see also *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975); see also *In re Larson*, 340 F.2d 965, 144 USPQ 347 (CCPA 1965).

Conclusion

50. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

51. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

52. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian La Forgia whose telephone number is (571) 272-3792. The examiner can normally be reached on Monday thru Thursday 7-5.

53. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

54. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christian LaForgia
Patent Examiner
Art Unit 2131

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